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OFFICE OF PETITIONS

DECISION ON APPLICATION

In re Application of

CRESCENZI et al. :

FOR

Application No. 10/540,449 : H

Filed: June 22, 2005 : PATENT TERM ADJUSTMENT

Attorney Docket No. ITR0046YP

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)," filed March 17, 2008. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 177 days to 206 days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 206 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 23, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 177 days. In response, applicants timely filed the instant request for reconsideration of the patent term adjustment.

<sup>&</sup>lt;sup>1</sup> Office records indicate that the issue fee payment was received on March 17, 2008.

Applicants request that the patent term adjustment be corrected to 206 days. Applicants dispute the reduction pursuant to 37 CFR 1.704(b) of 29 days on the ground that they did not fail to engage in reasonable efforts to conclude prosecution of the application.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 177 days is incorrect. The Office mailed a nonfinal Office action on July 3, 2007, within four months after the date of the filing of applicants' reply on April 12, 2007. Although the nonfinal Office action of July 3, 2007, was mailed to the correct correspondence address of record, the Office action was returned by the United States Postal Service to the USPTO. Accordingly, a letter restarting the period for reply (and re-mailing the Office action) was mailed on August 3, 2007. Applicants' response filed November 2, 2007, was received within the three-month period after the date of the mailing of the Office action as re-mailed on August 3, 2007. Accordingly, a period of reduction of 29 days is not warranted and is being removed.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 206 days.

The Office will charge the \$200.00 fee set forth in 37 CFR 1.18(e) to the Deposit Account as authorized. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Senior Legal Advisor

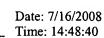
Office of Patent Legal Administration

Office of Deputy Commissioner

for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day: Wednesday





## PALM INTRANET

PTA Calculations for Application: 10/540449								
Application Filing Date: 06/22/2005	PTO Delay (PTO):	206						
Issue Date of Patent:	Three Years:	0						
Pre-Issue Petitions: 0	Applicant Delay (APPL):	29						
Post-Issue Petitions: 0	Total PTA (days):	206						
PTO Delay Adjustment: 29								

File Contents History									
Number	Date	Contents Description	PTO	APPL	START				
52	07/16/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	29						
39	01/23/2008	MAIL NOTICE OF ALLOWANCE							
38	01/23/2008	ISSUE REVISION COMPLETED							
37	01/23/2008	DOCUMENT VERIFICATION							
36	01/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED							
35	01/23/2008	CASE DOCKETED TO EXAMINER IN GAU							
34	01/22/2008	EXAMINER'S AMENDMENT COMMUNICATION							
33	01/22/2008	NOTICE OF ALLOWABILITY							
28	11/17/2007	DATE FORWARDED TO EXAMINER							
27	11/01/2007	RESPONSE AFTER NON-FINAL ACTION		29	24				
i I	08/03/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD							
25	08/01/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)							
24	07/03/2007	MAIL NON-FINAL REJECTION							
23	06/25/2007	NON-FINAL REJECTION							
22	04/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED							
21	04/24/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED							
20	04/12/2007	REFERENCE CAPTURE ON IDS							
19.7	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	17				
19	10717 ( 77 7130 71	INFORMATION DISCLOSURE STATEMENT (IDS) FILED							
18	04/26/2007	DATE FORWARDED TO EXAMINER							
17	04/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED							

16	03/16/2007	MAIL RESTRICTION REQUIREMENT	206	1
15	03/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION		
14	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU		
13		REFERENCE CAPTURE ON IDS		
12.7	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
12	04/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
11		PRELIMINARY AMENDMENT		
10	02/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE		
9	02/09/2006	CASE DOCKETED TO EXAMINER IN GAU		
8	11/21/2005	CLEARED BY OIPE CSR		
7	11/21/2005	CLEARED BY OIPE CSR		
6	06/27/2005	371 COMPLETION DATE		
5	10/25/2005	APPLICATION DISPATCHED FROM OIPE		
4	10/25/2005	NOTICE OF DO/EO ACCEPTANCE MAILED		
3	07/21/2005	PCT CLASSIFICATION		
2	07/21/2005	PCT CLASSIFICATION		
1	06/22/2005	INITIAL EXAM TEAM NN		

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## **EXPLANATION OF PTA CALCULATION**

## **EXPLANATION OF PTE CALCULATION**

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